



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,495	12/03/2003	Ruth Frank	F8860.0001/P001-A	3983

24998 7590 01/23/2007
DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

EXAMINER

NGUYEN, TAI T

ART UNIT	PAPER NUMBER
----------	--------------

2612

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/725,495

Applicant(s)

FRANK, RUTH

Examiner

Tai T. Nguyen

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 6-11, 13-17, 20-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 6-11, 13-17, and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grzywa (US 4,754,883) in view of Goldfarb (US 3,623,730).

Regarding claim 1, Grzywa discloses a tray (10) including:

a storage surface formed with a plurality of openings (22, 36a-d, 38a-d, figures 1-2; col. 3, lines 6-20), wherein the openings including a first substantially rectangular shaped opening and a second substantially circular shaped opening (figures 1-2);

a base (16) for support the storage surface attached below said storage surface (figures 1-2); and

a lateral movement restriction component (24) incorporated onto a lower surface of said base (figures 1-2; col. 3, lines 29-41).

Grzywa disclose everything claimed except for the rectangular opening having three substantially planar sides extending down from the storage and surrounding a rectangular lower surface formed below the storage surface, wherein one side of the lower surface is joined with a side of the rectangular opening such that the lower surface is positioned at a non-parallel angle with respect to the storage surface.

Art Unit: 2612

Goldfarb teaches a tray (11) having a storage surface including a substantially rectangular opening (figure 1) having three substantially planar sides extending down from the storage and surrounding a rectangular lower surface formed below the storage surface, wherein one side of the lower surface is joined with a side of the rectangular opening such that the lower surface is positioned at a non-parallel angle with respect to the storage surface (figure 1, col. 2, lines 1-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the rectangular opening design of Goldfarb for the rectangular opening of Grzywa for the purpose of facilitating easy storing and removal of an object/item from the opening.

Grzywa discloses the instant claimed invention except for the tray for use in a patient care facility. Since Grzywa discloses the tray for containing tool/item, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Regarding claim 2, Grzywa further discloses a personal item identification features (39, figure 2; col. 5, lines 21-39) but fails to disclose the item identification portions being formed onto the lower surface (col. 7, lines 30-35).

Regarding claim 6, refer to claim 1 above.

Regarding claim 7, refer to claim 2 above.

Regarding claim 8, as shown in figure 1, Grzywa discloses the tray comprise personal item storage containers (36a-d) designed to fit securely within the

Art Unit: 2612

compartments recessed onto the tray's planar surface. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to include a denture cup in compartments (36a), eyeglasses case in compartment (38a) and a hearing aid in compartment (36c) for the purpose of personal item usage.

Regarding claim 9, Grzywa discloses the instant claimed invention, as mentioned in claim 1 above, except for: a set of weights evenly distributed in the lower section. Since Grzywa discloses the tray (10) having a bottom edge (16) which rests upon a supporting surface (18, figure 1). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use a set of weight that is evenly distributed in the bottom edge (16) for the purpose of keeping the tray stands upon its base.

Regarding claim 10, refer to claim 8 above.

Regarding claim 11, refer to claim 1 above.

Regarding claim 13, as shown in figures 1-2, Grzywa discloses the tray having compartments (22, 36a-d, 38a-d) for storing personal items when the tray is placed in horizontal.

Regarding claims 14, Grzywa discloses a tray (10) comprising:

a tray member (figure 1) having an upper surface (12) including a substantially planar surface region and a plurality of depression portions (figure 1), the portions comprising:

a first depression portion (38) for receiving articles of different shapes (figure 1);
and

a second depression portion formed with a substantially circular opening (36) having a side portion and a floor portion defining a substantially cylindrical cavity (figure 1, col. 4, lines 1-7).

Grzywa discloses the instant claimed invention except for the first depression portion having a surface with a substantially concave region, the substantially concave region obliquely joined to said substantially planar surface region at one or more boundary areas between the substantially planar surface region and the elongated opening. Goldfarb teach a tray (11) having a substantially planar surface region (figure 1) and a plurality of depression portions (13, figure 1) with an elongated opening having therewithin a surface with a substantially concave region, the substantially concave region obliquely joined to substantially planar surface region at one or more boundary areas between the substantially planar surface region and said elongated opening (figure 1, col. 2, lines 1-10). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the concave design as taught by Goldfarb in the system as disclosed by Grzywa for the purpose of providing concave region that helps a user to store/remove articles in/from the tray easily.

Regarding claim 15, Goldfarb teach the tray having substantially concave region comprises at least a first region and a second region wherein the first region is a substantially planar region (figure 1).

Regarding claim 16, 16. Goldfarb teaches an area where the substantially concave region and said substantially planar surface region converge defines a dihedral having an oblique dihedral angle (figure 1).

Regarding claim 17, Goldfarb teaches the concave region comprises at least a third curved region (figure 1).

Regarding claims 20-23, Grzywa discloses the instant claimed invention except for the personal items being eyeglasses, dentures, and hearing aids. Since Grzywa discloses the tray having different sizes and shapes for storing personal items, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to use the tray as disclosed by Grzywa for storing eyeglasses, dentures, and hearing aids because it is just an obvious desire choice.

Response to Arguments

3. Applicant's arguments filed on October 25, 2006 have been fully considered but they are not persuasive.

4. In response to applicant's argument that the combination of elements is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, examiner believes that the combination of Grzywa and Goldfarb references is perfectly read on claimed invention that one skilled in the art would have motivation to combine from a prior art apparatus satisfying the claimed structural limitations.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tai T. Nguyen whose telephone number is (571) 272-2961. The examiner can normally be reached on Monday-Friday from 7:30am-5:00pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2612

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 18, 2007

A handwritten signature in black ink, appearing to read 'Tai Nguyen', with a long, sweeping horizontal line extending to the right.

TAI NGUYEN
PRIMARY EXAMINER